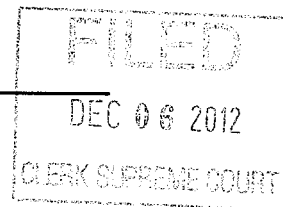


In the Supreme Court of Iowa

**In the Matter of New Rule of
Civil Procedure 1.1702—
Uniform Interstate Depositions
and Discovery Rule**

**Report of the
Iowa Supreme Court**



To: The Honorable Gene Fraise, Chair of the Senate Judiciary Committee of The 2012 Regular Session Of The Eighty-Fourth General Assembly Of The State Of Iowa.

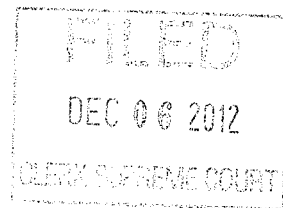
Pursuant to Iowa Code sections 602.4201 and 602.4202 (2011), the Supreme Court of Iowa has approved and reports on this date to the Secretary of the Legislative Council the addition of rule 1.1702 to the Iowa Rules of Civil Procedure providing a uniform process for interstate depositions and discovery. These amendments to Chapter 1 of the Iowa Court Rules shall take permanent effect February 4, 2013.

Dated this 6th day of December, 2012.

Respectfully submitted,

The Supreme Court of Iowa

By Mark S. Cady
Mark S. Cady, Chief Justice



In the Supreme Court of Iowa

**In the Matter of New Rule of)
Civil Procedure 1.1702—Uniform) **Supervisory Order**
Interstate Depositions and)
Discovery Rule)**

The Iowa Supreme Court, after consideration of extensive public comments received on the proposed rule 1.1702 governing interstate depositions, has approved the new rule pursuant to the court's supervisory and administrative authority under Iowa Code section 602.1201 (2011) and subject to the provisions of section 602.4202.

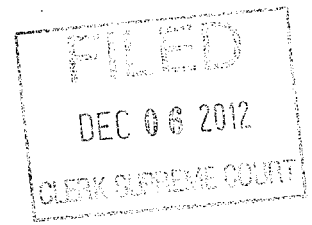
The new rule is intended to streamline existing procedure and make it more convenient for parties to a civil action pending in a state other than Iowa to subpoena evidence in Iowa. Previously, parties have had to first obtain a commission from the other state court. The new rule is based upon the Uniform Interstate Depositions and Discovery Act. The rule imposes a \$50 filing fee when a party submits a foreign subpoena to a clerk of court for issuing a signed but otherwise blank subpoena and for bringing to the court a motion for protective order or to enforce, quash, or modify a subpoena issued under new rule 1.1702(2). New rule 1.1702(5) permits an attorney to issue a subpoena without an Iowa court file being opened or a docket number assigned.

New Iowa Rule of Civil Procedure 1.1702 attached to this supervisory order shall be temporarily adopted and be effective immediately. This new rule will permanently take effect February 4, 2013, consistent with the provisions of Iowa Code section 602.4202.

Dated this 6th day of December, 2012.

The Supreme Court of Iowa

By 
Mark S. Cady, Chief Justice



CHAPTER 1
RULES OF CIVIL PROCEDURE

* * * *

Rule 1.1702 Uniform interstate depositions and discovery.

1.1702(1) Definitions. In this rule:

- a. "Foreign jurisdiction" means a state other than Iowa.
- b. "Foreign subpoena" means a subpoena issued under authority of a court of record of a foreign jurisdiction.
- c. "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.
- d. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
- e. "Subpoena" means a document, however denominated, issued under authority of a court of record of Iowa requiring a person to:
 - (1) Attend or give testimony at a deposition;
 - (2) Produce and permit inspection and copying of designated books, documents, records, electronically stored information, or tangible things in the possession, custody, or control of the person; or
 - (3) Permit inspection of premises under the control of the person.

1.1702(2) Issuance of subpoena.

- a. To obtain issuance of a subpoena under this rule, a party to a proceeding in a foreign jurisdiction must either:
 - (1) request a signed, blank subpoena from the clerk of an Iowa court in the county in which discovery is to be conducted pursuant to rule 1.1701(2); or
 - (2) arrange for an attorney who is retained by that party and who is licensed or otherwise authorized to practice law in Iowa to issue and sign the subpoena as an officer of the court pursuant to rule 1.1701(2). Obtaining and completing a subpoena under rule 1.1702 does not constitute an appearance in the courts of this state.
- b. When a party submits a foreign subpoena to a clerk of court in this state, the clerk, pursuant to rule 1.1701(2), shall provide the party with a subpoena that is signed but otherwise blank.
- c. A subpoena under this rule must:
 - (1) Comply with rule 1.1701(1), provided, however, that for purposes of rule 1.1701(1)(a)(1), the Iowa court, in the county in which discovery is to be conducted, shall be listed as the court from which the subpoena is issued, and

for purposes of rule 1.1701(1)(a)(2), the title of the action and its docket number from the foreign jurisdiction shall be used;

(2) Contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel; and

(3) Include a copy of the foreign subpoena as an attachment.

d. Form 13 or Form 15 of rule 1.1901 may be used and shall be sufficient under this rule, so long as the form includes the information required by rule 1.1702(2)(c), and a copy of the foreign subpoena is attached as required by rule 1.1702(2)(c)(3).

1.1702(3) *Service of subpoena.* A subpoena issued under rule 1.1702(2) must be served in compliance with rule 1.1701(3).

1.1702(4) *Deposition, production, and inspection.* Rule 1.1701(4)-(7) applies to subpoenas issued under rule 1.1702(2).

1.1702(5) *Court file and docket number.* An attorney may issue a subpoena without an Iowa court file being opened or a docket number assigned. If action is taken pursuant to rule 1.1702(2)(b), the clerk shall open a court file and collect a \$50 fee. If action is taken pursuant to rule 1.1702(6) and a file has not previously been opened, the clerk shall open a file and collect a \$50 fee.

1.1702(6) *Motion to court.* A motion to the court for a protective order or to enforce, quash, or modify a subpoena issued under rule 1.1702(2) must comply with the rules or statutes of this state and be submitted to the court in the county in which discovery is to be conducted. Any fee paid in connection with the filing of a motion under rule 1.1702(6) shall be recoverable by the successful party against the losing party. In addition, the provisions of rule 1.517 apply to motions brought under this rule. An attorney who files such a motion or a resistance thereto must be eligible to appear in the courts of Iowa.